

Message Text

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PAGE 01 BONN 14863 01 OF 02 191707Z

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ACTION EUR-25

INFO OCT-01 ISO-00 SAJ-01 SP-03 AID-20 EB-11 NSC-07 RSC-01

CIEP-03 TRSE-00 SS-20 STR-08 OMB-01 CEA-02 CIAE-00

COME-00 FRB-03 INR-11 NSAE-00 XMB-07 OPIC-12 LAB-06

SIL-01 L-03 H-03 PA-04 PRS-01 USIA-15 DRC-01 /170 W

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R 191656Z SEP 74

FM AMEMBASSY BONN

TO SECSTATE WASHDC 5141

LIMITED OFFICIAL USE SECTION 01 OF 02 BONN 14863

DEPARTMENT PASS TREASURY AND FEDERAL RESERVE

E.O. 11652: N/A

TAGS: EFIN, GW

SUBJECT: AMERICAN BANK'S PROBLEMS WITH PROPOSED NEW
GERMAN BANKING REGULATIONS.

1. SUMMARY. THE FINANCIAL ATTACHE HAS DISCUSSED THE
PROPOSED CHANGES IN GERMAN BANKING REGULATIONS (SEE BONN
14251 AND BONN 13921) WITH A NUMBER OF THE BRANCHES OF
AMERICAN BANKS IN GERMANY. MANY OF THE AMERICAN BRANCHES
SPECIALIZE IN LARGE CREDITS AND WILL BE SERIOUSLY
AFFECTED BY THE PROPOSALS TO (A) REDUCE THE MAXIMUM
CREDIT ALLOWED TO ANY ONE DEBTOR FROM THE CURRENT 100
PERCENT TO A PROPOSED 50 PERCENT OF A BANK'S EQUITY
CAPITAL AND (B) TO LIMIT THE 5 LARGEST CREDITS A BANK CAN
HAVE OUTSTANDING TO TWICE ITS EQUITY CAPITAL. END
SUMMARY.

2. ACCORDING TO GERMAN BANKING LAW THE "EQUITY CAPITAL"
TO WHICH THE NEW RATIOS APPLY WOULD NOT BE THE EQUITY
CAPITAL OF THE AMERICAN PARENT BANK BUT RATHER THE
WORKING CAPITAL ALLOCATED BY THIS PARENT TO THE GERMAN
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PAGE 02 BONN 14863 01 OF 02 191707Z

BRANCHES (SEE BONN'S A-397). TO SOME EXTENT AMERICAN

BRANCHES THUS CAN COPE WITH THE PROPOSED RULES BY INCREASING THEIR "EQUITY CAPITAL" IN GERMANY WHICH REPRESENTS ONLY INTERNAL BOOKKEEPING TRANSACTIONS WITHIN THE PARENT BANK. THEY ALSO CAN SHIFT SOME OF THE LARGER CREDITS TO ONE OF THEIR BRANCHES OUTSIDE OF THE FRG. BUT MEASURES SUCH AS THE ABOVE HAVE DISADVANTAGES AND MAY NOT BE AVAILABLE TO ALL BANKS. AN INCREASE IN THE "EQUITY CAPITAL" OF THE GERMAN BRANCH, FOR EXAMPLE, INVOLVES PAYMENTS OF THE GERMAN CAPITAL TRANSFER TAX, MEANS THAT THE MONEY HAS TO BE TAKEN FROM SOME OTHER ALLOCATION AND AFFECTS THE PROFITABILITY CALCULATIONS OF THE BRANCH. REFERRAL OF LOANS TO BRANCHES IN OTHER COUNTRIES IS FEASIBLE ONLY IF EURO DM INTEREST RATES ARE FULLY COMPETITIVE WITH DOMESTIC ONES AND IF GERMAN INWARD CAPITAL CONTROLS (BARDEPOT) CONTINUE TO BE SUSPENDED AND THE CUSTOMER IS WILLING TO TAKE THE RISK THAT THEY WILL NOT BE REIMPOSED.

3. MANY OF THE AMERICAN BRANCHES THEREFORE FEEL THAT IT WOULD BE DIFFICULT FOR THEM TO LIVE WITH THE PROPOSED RULES. THEY ALSO FEEL THAT THEIR APPLICATION TO THEM ON THE BASIS OF THEIR "GERMAN EQUITY CAPITAL" WOULD NOT REALLY BE WARRANTED SINCE THEIR SOLVENCY IS IN FACT BACKED BY THE FULL EQUITY CAPITAL OF THEIR PARENTS. IN THIS CONNECTION THEY POINT OUT THAT U.S. REGULATORY AUTHORITIES IN APPLYING LIMITATIONS TO LARGE LOANS BY GERMAN BANKS IN THE U.S. INSIST ON A MAXIMUM RATIO (10 PERCENT) OF EACH LOAN TO THE CAPITAL OF THE GERMAN PARENT BANK AND NOT TO THAT OF THE U.S. DAUGHTERS (CAN YOU CONFIRM THIS?). SOME THEREFORE WOULD LIKE TO RAISE THE RECIPROCITY ARGUMENT.

4. THE GERMAN BANKING SUPERVISORY AUTHORITY HAS

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PAGE 01 BONN 14863 02 OF 02 191707Z

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LIMITED OFFICIAL USE SECTION 02 OF 02 BONN 14863

DISCUSSED THE PROPOSED NEW RULES WITH THE GERMAN BANKERS ASSOCIATION OF WHICH THE AMERICAN BRANCHES ARE ASSOCIATED MEMBERS. MOST OF THE AMERICAN BRANCHES FEEL, HOWEVER, THAT THEY CANNOT DEPEND ON THE GERMAN BANKERS ASSOCIATION TO EFFECTIVELY REPRESENT THEIR INTERESTS IN CASES WHERE AMERICAN OR FOREIGN BANKS ARE FACED WITH A SPECIAL PROBLEM TO WHICH THEY ARE SEEKING A SPECIAL SOLUTION. THE AMERICAN BANKS HAVE MET TO SEE IF THEY COULD AGREE ON A COMMON STRATEGY OR APPROACH TO THE GERMAN AUTHORITIES. THEY DID NOT SUCCEED, HOWEVER. SOME, FOR EXAMPLE CHASE, FEEL THAT THEY CAN LIVE WITH WHATEVER GERMAN BANKS CAN LIVE WITH ON CAPITAL/LOAN RATIOS. THEY BELIEVE NO SPECIAL APPROACH IS NEEDED ON THIS ISSUE AND IN ANY CASE IF AMERICAN BRANCHES HAVE PROBLEMS THEY SHOULD APPROACH THE GERMAN AUTHORITIES INDIVIDUALLY RATHER THAN AS A GROUP. OTHERS FEEL THAT A GROUP APPROACH IS BETTER SINCE DIVERGENT INDIVIDUAL APPROACHES WITH DIFFERENT PROPOSED SOLUTIONS MIGHT ONLY CONFUSE THE SITUATION. THEY HAVE NOT YET BEEN ABLE TO AGREE ON ANY COMMON APPROACH OR COUNTERPROPOSAL, HOWEVER.

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PAGE 02 BONN 14863 02 OF 02 191707Z

5. WE STRESSED TO THE BANKS THE TIGHT TIME FRAME WITHIN WHICH THE PROPOSED NEW RULES WILL BE CONSIDERED. THE GOVERNMENT IS PLANNING TO INTRODUCE THEM INTO THE BUNDESRAT DURING THE SECOND HALF OF OCTOBER AND ONCE A DRAFT BILL IS BEFORE PARLIAMENT CHANGES WILL BE DIFFICULT TO OBTAIN. WE SUGGESTED THAT THE AMERICAN BRANCHES CONCERNED, EITHER INDIVIDUALLY OR AS A GROUP, QUICKLY MAKE THEIR PROBLEMS AND VIEWS KNOWN TO THE GERMAN AUTHORITIES THROUGH THEIR NORMAL CHANNELS (IN THE FIRST INSTANCE THE LAND CENTRAL BANKS AND THE BANKING SUPERVISORY AUTHORITY) AND KEEP IN TOUCH WITH THE EMBASSY. WE ALSO AGREED TO INFORMALLY APPRISE THE FINANCE MINISTRY OF THE SPECIAL PROBLEMS THE PROPOSED

RULES POSE FOR SOME OF THE AMERICAN BRANCHES.
HILLENBRAND

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